

### **304.5-070 Casualty insurance defined.**

(1) "Casualty insurance" includes:

- (a) Vehicle insurance. Insurance against loss of or damage to any land vehicles or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability, or expense resulting from or incidental to ownership, maintenance, or use of any such vehicle, aircraft, or animal; together with insurance against accidental injury to individuals, irrespective of legal liability of the insured, including the named insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft, or draft or riding animal, if the insurance is issued as an incidental part of insurance on the vehicle, aircraft, or draft or riding animal;
- (b) Liability insurance. Insurance against legal liability for the death, injury, or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries, or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance;
- (c) Workers' compensation and employer's liability. Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees;
- (d) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal or concealment, or from any attempt at any of the foregoing; including supplemental coverage for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause;
- (e) Personal property floater. Insurance upon personal effects against loss or damage from any cause;
- (f) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings;
- (g) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus, and the inspection of and issuance of certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured;
- (h) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps and other fire extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and

insurance against loss or damage to sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus;

- (i) Credit. Insurance, other than mortgage guaranty insurance, against loss or damage resulting from failure of debtors to pay their obligations to the insured;
- (j) Malpractice. Insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service;
- (k) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance, or use of elevators, except loss or damage by fire, and the inspection of and issuance of certificates of inspection upon, elevators;
- (l) Congenital defects. Insurance against congenital defects in human beings;
- (m) Livestock. Insurance against loss of or damage to livestock from any cause;
- (n) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals;
- (o) Failure of certain institutions to record documents. Insurance indemnifying against loss from failure or omission to record as public records, liens of any kind upon personal property, given, held, delivered, or possessed as security or collateral for loans, advances, debts, or obligations of all kinds;
- (p) Automobile guaranty. Insurance of the mechanical condition or freedom from defective or worn parts of motor vehicles, other than as provided by manufacturer's warranty. Provided, however, the making of a contract covering only defects in material and workmanship in exchange for a separately stated charge where it is merely incidental to the business of selling or leasing motor vehicles, shall not be deemed insurance, provided, that the maker of the contract has an insurance policy with an authorized motor vehicle insurer as defined in KRS 304.1-100 to assure the performance of the duties of the maker created by each on all of the contracts made by the maker. In the event that the maker of the contract is unable to perform the duties imposed thereby, the purchaser of the contract shall then be considered a policyholder of the insurer. The policy shall include a loss payee endorsement that provides coverage to any lending institution as its interest may appear. In addition, the contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against that insurer upon the failure of the maker to pay any claim within sixty (60) days after proof of loss has been filed

with the maker. The requirements that the maker of the contract have an insurance policy with an authorized motor vehicle insurer as defined in KRS 304.1-100 shall not apply where the maker is a manufacturer, distributor, or importer of motor vehicles. As used in this paragraph, the term "maker" shall include a warranty service company which issues automobile guaranties through a motor vehicle dealer, in which the motor vehicle dealer is not an obligor under the contract. The executive director is authorized to promulgate regulations to interpret this paragraph; and

- (q) Miscellaneous. Insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this subtitle, if the insurance is not disapproved by the executive director as being contrary to law or public policy. A service contract to repair, replace, or maintain consumer products shall not be insurance, if the maker of the service contract registers with the executive director and provides:

1. Evidence of a sufficient net worth, as determined by the executive director, to assure the performance of the duties of the maker created by all of the contracts made by the maker; or
2. Evidence of an insurance policy or performance bond with an authorized insurer as defined in KRS 304.1-100, to assure the performance of the duties of the maker created by all of the service contracts made by the maker.

As set forth in subparagraph 2. of this paragraph, if the maker of the service contract is unable to perform the duties imposed thereby, the purchaser of the service contract shall then be considered a policyholder of the insurer. The service contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against the insurer upon the failure of the maker to pay any claim within sixty (60) days after the claim has been filed with the maker. The requirements of this paragraph shall not apply where the maker is a manufacturer of consumer products. If the maker of the service contract registers with the executive director and subsequently determines that the information submitted pursuant to subparagraph 1. of this paragraph no longer reflects a sufficient net worth as determined by the executive director, to assure the performance of the duties of the maker created by all of the contracts made by the maker, the maker shall notify the executive director of the change in circumstances. Each registration filing with the executive director shall be filed within thirty (30) calendar days in advance of the selling of service contracts to repair, replace, or maintain consumer goods. The executive director is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A to effectuate this paragraph.

- (2) Provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under paragraphs (a) (vehicle), (b) (liability), (d) (burglary), (g) (boiler machinery), (j) (malpractice), and (k) (elevator) of subsection (1) of this section

shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and shall not be subject to provisions of this code applicable to life and health insurances.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 291, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 375, sec. 1, effective July 15, 1994. -- Amended 1986 Ky. Acts ch. 146, sec. 1, effective July 15, 1986. -- Created 1970 Ky. Acts ch. 301, subtit. 5, sec. 7, effective June 18, 1970.

**Legislative Research Commission Note** (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.